IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 21160 of 2004

Between:

M/S. Balaji Decor (P) Ltd., Rep by its Director,
Sri Kishorilal Chowdhary, S/o. Sri Chandagi Lal Choudhary,

aged 62 years, Regd. Office at 235/1, Vellanki,

Anandapuram Mandalam, Visakhapatnam - 531 163.

..... PETITIONER

AND

Commercial Tax Officer, Govt. of A.P., Chinna Waltair,

Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any writ, order or direction particularly one in the nature of MANDAMUS declaring the proceedings dt. 15-9-2004 initiated by the respondent under the provisions of the Revenue Recovery Act, pending passing of the orders by the Commissioner of Industries, Hyderabad for granting permanent eligibility certificate for extension of incentives under G.O.Ms. No. 108 dated 20-5-1996 as extended in G.O.Ms.No. 9
dated 05-01-2000 in pursuance of the order of this court dated 13-10-2004 in W.P No. 18823/2004 as illegal, arbitrary, consequently direct the respondent herein to defer the coercive steps pending consideration of our case by the appropriate

authority in pursuance of the order of this court dated 13-10-2004 in W.P No. 18823/2004.

For the Petitioner: DR. P.B.VIJAY KUMAR, Advocate.

For the Respondent: GP FOR COMMERCIAL TAX

The Court made the following Order: (per Sri B. Sudershan Reddy, J)

That as on today, there are no legal impediments whatsoever for proceeding against the petitioner under the provisions of the Revenue Recovery Act for the purposes of realization of arrears of tax payable by the petitioner. In such view of the mater, we cannot issue any writ of Mandamus as prayed for by the petitioner declaring the proceedings dated 15-9-2004 to be void. It shall be open to the Government to consider the representation stated to have been made by the petitioner for granting permanent eligibility certificate for extension of incentives under G.O Ms. No. 108, Industries and Commerce (IP) Department dated 20-05-1996 as extended in G.O Ms. No. 9 dated 05-01-2000. It is for the respondent to take an appropriate decision whether it would be just and reasonable to postpone the collection of the tax due by exercising the power under the Revenue Recovery Act even during the pendency of the application stated to have been submitted by the petitioner before the Commissioner of Industries.

The Writ Petition, with the observations as above, shall stand dismissed.

(B. Sudershan Reddy, J)

01-12-2004

(T.Ch. Surya Rao, J)

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Note: Furnish copy by tomorrow.

B/O

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To

1. Commercial Tax Officer, Govt. of A.P., Chinna Waltair,

Visakhapatnam.

2. Two CCs to the Government Pleader for Commercial Taxes,

High Court of Andhra Pradesh, Hyderabad (OUT).

3. Two CD copies.